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6 **UNITED STATES DISTRICT COURT**  
7 **WESTERN DISTRICT OF WASHINGTON**  
8 **AT SEATTLE**

9 CHINDA PEN,

10 Petitioner,

Case No. C11-487-MJP-JPD

11 v.

12 NATHALIE R. ASHER, *et al.*,

REPORT AND  
RECOMMENDATION


13 Respondents.  
14

15 On March 21, 2011, petitioner, proceeding pro se, filed a Petition for Writ of Habeas  
16 Corpus pursuant to 28 U.S.C. § 2241, challenging his detention by the United States Immigration  
17 and Customs Enforcement (“ICE”). (Dkt. No. 4.) On April 21, 2010, however, respondents  
18 filed a Motion to Dismiss for Mootness, which indicated that petitioner was scheduled to be  
19 removed from the United States to Cambodia on or about April 26, 2011. (Dkt. No. 9.)  
20 Respondents argued because petitioner would be removed from the United States and because,  
21 thereafter, he would no longer be detained by ICE, his habeas petition would become moot. *Id.*  
22 at 2. On May 5, 2011, respondents filed a Notice of Alien Removal along with documentation  
23 which indicates that petitioner was removed by ICE officials to Cambodia on April 26, 2011.  
24 (Dkt. No. 11.)

25 For a federal court to have jurisdiction, “an actual controversy must exist at all stages of  
26 the litigation.” *Biodiversity Legal Foundation v. Badgley*, 309 F.3d 1166, 1173 (9th Cir. 2002).

1 “When a controversy no longer exists, the case is moot.” *Id.* Because petitioner is no longer  
2 detained by ICE, the Court finds that petitioner’s habeas petition is moot and should be  
3 dismissed without prejudice and without award of costs to either party. *See, e.g., Cooney v.*  
4 *Edwards*, 971 F.2d 345, 346 (9th Cir. 1992)(holding that the District Court properly dismissed  
5 plaintiff’s claims that had become either moot or unripe). A proposed Order accompanies this  
6 Report and Recommendation.

7 DATED this 9th day of June, 2011.

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9 JAMES P. DONOHUE  
10 United States Magistrate Judge  
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